



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2022-0265; FRL-9781-02-R4]

#### Air Plan Approval; North Carolina; Charlotte-Gastonia-Rock Hill Area Limited

#### Maintenance Plan for the 1997 8-Hour Ozone NAAQS

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing approval of a state implementation plan (SIP) revision submitted by the State of North Carolina, through the North Carolina Department of Environment Quality, Division of Air Quality (DAQ), via a letter dated December 9, 2021. The SIP revision includes the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS) Limited Maintenance Plan (LMP) for the North Carolina portion (hereinafter referred to as the Metrolina Area) of the Charlotte-Gastonia-Rock Hill NC-SC 1997 8-hour ozone maintenance area (hereinafter referred to as the “Charlotte NC-SC 1997 8-hour NAAQS Area” or “bi-state Charlotte Area”). The Charlotte NC-SC 1997 8-hour NAAQS Area is comprised of Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan and Union Counties and a portion of Iredell County (i.e., Davidson and Coddle Creek Townships) in North Carolina; and the Rock Hill Metropolitan Planning Organization boundary in York County, South Carolina. EPA is finalizing approval because the LMP provides for the maintenance of the 1997 8-hour ozone NAAQS within the Metrolina Area through the end of the second 10-year portion of the maintenance period. This action makes certain commitments related to maintenance of the 1997 8-hour ozone NAAQS in the Metrolina Area federally enforceable as part of the North Carolina SIP.

**DATES:** This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF

**PUBLICATION IN THE FEDERAL REGISTER].**

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No.

EPA-R04-OAR-2022-0265. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov)

web site. Although listed in the index, some information may not be publicly available, i.e.,

Confidential Business Information or other information whose disclosure is restricted by statute.

Certain other material, such as copyrighted material, is not placed on the Internet and will be

publicly available only in hard copy form. Publicly available docket materials are available

either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Regulatory

Management Section, Air Planning and Implementation Branch, Air and Radiation Division,

U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia

30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR**

**FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional

Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding

Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Sarah LaRocca, Air Regulatory

Management Section, Air Planning and Implementation Branch, Air and Radiation Division,

U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia

30303-8960. The telephone number is (404) 562-8994. Ms. LaRocca can also be reached via

electronic mail at [larocca.sarah@epa.gov](mailto:larocca.sarah@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

In accordance with the Clean Air Act (CAA or Act), EPA is approving the Metrolina Area's LMP for the 1997 8-hour ozone NAAQS, adopted and submitted by DAQ as a revision to the North Carolina SIP on December 9, 2021. In 2004, the Charlotte NC-SC 1997 8-hour NAAQS Area, which includes the Metrolina Area, was designated as nonattainment for the 1997

8-hour ozone NAAQS. Subsequently, in 2013, after a clean data determination<sup>1</sup> and EPA's approval of a maintenance plan, the North Carolina portion of the Charlotte NC-SC 1997 8-hour NAAQS Area, which includes the Metrolina Area, was redesignated to attainment for the 1997 8-hour ozone NAAQS. *See* 78 FR 72036 (December 2, 2013).

The Metrolina Area LMP is designed to maintain the 1997 8-hour ozone NAAQS within the Metrolina Area through the end of the second 10-year portion of the maintenance period beyond redesignation. EPA is finalizing the approval of the plan because it meets all applicable requirements under CAA sections 110 and 175A. As a general matter, the Metrolina Area LMP relies on the same control measures and contingency provisions to maintain the 1997 8-hour ozone NAAQS during the second 10-year portion of the maintenance period as the maintenance plan submitted by DAQ for the first 10-year period.

In a notice of proposed rulemaking (NPRM), published on November 21, 2022 (87 FR 70758), EPA proposed to approve the Area's LMP because the State made a showing, consistent with EPA's prior LMP guidance, that the Charlotte NC-SC 1997 8-hour NAAQS Area's ozone concentrations are well below the 1997 8-hour ozone NAAQS, have been historically stable, and that it has met all other maintenance plan requirements. The details of North Carolina's submission and the rationale for EPA's action are explained further in the November 21, 2022, NPRM. Comments on the November 21, 2022, NPRM were due on or before December 21, 2022. No comments were received on the November 21, 2022, NPRM, adverse or otherwise.

## **II. Final Action**

In accordance with sections 110(k) and 175A of the CAA, and for the reasons set forth in the November 21, 2022, NPRM, EPA is finalizing the Metrolina Area LMP for the 1997 8-hour ozone NAAQS, as submitted by NCDAQ on December 9, 2021. EPA is finalizing the approval of the Metrolina Area LMP because it includes an acceptable update of various elements of the 1997 8-hour ozone NAAQS Maintenance Plan approved by EPA for the first 10-year period

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<sup>1</sup> *See* 76 FR 70656 (November 15, 2011).

(including emissions inventory, assurance of adequate monitoring and verification of continued attainment, and contingency provisions), and retains the relevant provisions of the SIP. EPA also finds that the Metrolina Area qualifies for the LMP option and that, therefore, the Metrolina Area's LMP adequately demonstrates maintenance of the 1997 8-hour ozone NAAQS through documentation of monitoring data showing maximum 1997 8-hour ozone levels well below the NAAQS and continuation of existing control measures. EPA believes that the Metrolina Area's 1997 8-Hour Ozone LMP is sufficient to provide for maintenance of the 1997 8-hour ozone NAAQS in the Metrolina Area over the second 10-year maintenance period, through 2034, and thereby satisfies the requirements for such a plan under CAA section 175A(b).

### **III. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose information collection burdens under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having significant economic impacts on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandates or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

This SIP revision is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping Requirements, Volatile organic compounds.

Dated: December 30, 2022.

**Daniel Blackman,**  
*Regional Administrator,*  
*Region 4.*

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as follows:

#### **PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

#### **Subpart II – North Carolina**

2. In § 52.1770, amend the table in paragraph (e) by adding an entry for “1997 8-hour Ozone 2nd Maintenance Plan (Limited Maintenance Plan) for the North Carolina portion of the bi-state Charlotte Area” at the end of the table to read as follows:

#### **§ 52.1770 Identification of plan.**

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(e) \* \* \*

### EPA-Approved North Carolina Non-Regulatory Provisions

Provision	State effective date	EPA approval date	Federal Register citation	Explanation
**	**	*	*	*
1997 8-hour Ozone 2nd Maintenance Plan (Limited Maintenance Plan) for the North Carolina portion of the bi-state Charlotte Area	12/9/2021	[Insert date of publication in <u>Federal Register</u> ]	[Insert Federal Register citation]	

[FR Doc. 2022-28664 Filed: 1/12/2023 8:45 am; Publication Date: 1/13/2023]